

## 48A C.J.S. Judges § 53

Corpus Juris Secundum | August 2023 Update

### Judges

Joseph Bassano, J.D.; Khara Singer-Mack, J.D.; Thomas Muskus, J.D.; Karl Oakes, J.D. and Jeffrey J. Shampo, J.D.

### III. Term and Tenure of Office; Vacancy

#### B. Power to Fix and Alter Term

## § 53. During tenure of office

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### West's Key Number Digest

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### The tenure of judges in office may be changed by the constitution.

The tenure of judges in office may be changed by the constitution.<sup>1</sup> Where the office of judge is created by the constitution, and it fixes the term of office, the legislature cannot, except insofar as there is constitutional authority for same,<sup>2</sup> alter the term of judges in office,<sup>3</sup> either by lengthening<sup>4</sup> or shortening<sup>5</sup> such term. Where the office of judge is made elective, the legislature is further prohibited from continuing the incumbent in office beyond the expiration of the term for which he or she was elected, either by extending the term<sup>6</sup> or by postponing the time for the election of his or her successor.<sup>7</sup> If, however, a judicial office is created by the legislature, it may alter the term even though it might result in shortening or extending the tenure of judges in office.<sup>8</sup>

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### Footnotes

<sup>1</sup> W. Va.—*State ex rel. Dunbar v. Stone*, 159 W. Va. 331, 221 S.E.2d 791 (1976).

<sup>2</sup> Tenn.—*State ex rel. v. Link*, 172 Tenn. 258, 111 S.W.2d 1024 (1938).

<sup>3</sup> La.—*State ex rel. Garland v. Guillory*, 184 La. 329, 166 So. 94 (1935).

#### Limited constitutional protection

R.I.—*Gorham v. Robinson*, 57 R.I. 1, 186 A. 832 (1936).

4 Ill.—People ex rel. Bua v. Powell, 39 Ill. 2d 202, 234 N.E.2d 801 (1968).

5 Or.—State ex rel. Travis v. Imbler, 236 Or. 493, 389 P.2d 918 (1964).

6 Ill.—People ex rel. Bua v. Powell, 39 Ill. 2d 202, 234 N.E.2d 801 (1968).

7 Ill.—People ex rel. Oliver v. Knopf, 198 Ill. 340, 64 N.E. 842 (1902).

8 Ark.—Wirges v. Roberts, 240 Ark. 138, 398 S.W.2d 518 (1966).

**Validity of provision**

Colo.—People, by and on Behalf of People of City of Thornton v. Horan, 192 Colo. 144, 556 P.2d 1217 (1976).

**Statutory provision not personal to individual judge**

Fla.—Klein v. Schulz, 87 So. 2d 406 (Fla. 1956).

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